

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In re Terrorist Attacks on September 11, 2001

03 MDL 1570 (RCC)  
ECF Case

CANTOR FITZGERALD & CO., et al.,

Plaintiffs,

04 CV 7065 (RCC)  
ECF Case

v.

AKIDA BANK PRIVATE LIMITED, et al.,

Defendants.

**STIPULATED DISMISSAL WITHOUT PREJUDICE OF PLAINTIFFS' CLAIMS  
AGAINST MERCY-USA FOR AID AND DEVELOPMENT, INC.**

WHEREAS the above referenced action (the "Cantor action") has been filed in the United States District Court for the Southern District of New York and consolidated with In Re: Terrorist Attacks on September 11, 2001, 03 MDL No. 1570 (RCC);

WHEREAS the Cantor action amended complaint names as defendants the following entities:

- Mercy International Relief Agency
- Mercy International-Canada
- Human Concern International
- Mercy International-USA

WHEREAS Mercy-USA for Aid and Development, Inc., formerly known as Mercy International USA, Inc., agreed to accept service of process in the Cantor action on behalf of defendant Mercy International-USA because the name of defendant "Mercy International-USA"

is similar to "Mercy International USA, Inc.," the former name of Mercy-USA for Aid and Development, Inc.;

WHEREAS the Cantor action plaintiffs and counsel for Mercy-USA for Aid and Development, Inc., have engaged in several meet-and-confer conferences in good faith and have exchanged informal document and/or informational discovery with respect to the allegations contained in the Cantor action amended complaint;

WHEREAS the Cantor action plaintiffs and counsel for Mercy-USA for Aid and Development, Inc. wish to enter into a stipulated dismissal without prejudice of the Cantor action plaintiffs' claims against Mercy-USA for Aid and Development, Inc. ("Stipulation"), the terms of which are set out herein;

WHEREAS the parties to this Stipulation have given their express authority and permission to their undersigned counsel to enter into this Stipulation and have agreed to be bound thereby;

WHEREAS the terms of this Stipulation will serve the interests of justice and will increase the efficiency of this multidistrict litigation;

IT IS THEREFORE HEREBY STIPULATED AND AGREED by and among the Cantor action plaintiffs and Mercy-USA for Aid and Development, Inc.:

1. The prefatory statements above are incorporated as if set out in full herein;
2. The Cantor action amended complaint against Mercy-USA for Aid and Development, Inc. is hereby dismissed without prejudice without costs or attorney fees awarded to any of the parties;
3. The Cantor action plaintiffs agree not to re-file a complaint against Mercy-USA for Aid and Development, Inc. unless discovery or other information reveals that Mercy-USA for Aid and Development, Inc., directly or indirectly, on its own or as directed or controlled by

defendants Mercy International Relief Agency, Mercy International (Canada), or Human Concern International, aided or abetted the knowing and intentional lending of material support or financial assistance to defendant Al Qaeda, or otherwise participated in the conduct alleged to have occurred by the Cantor action plaintiffs within the Cantor action amended complaint, in which case the Cantor action amended complaint may be re-filed against Mercy-USA for Aid and Development, Inc.;

4. In the event that the Cantor action plaintiffs seek leave to re-file a complaint against Mercy-USA for Aid and Development, Inc. pursuant to the terms set forth in Paragraph 3 of this Stipulation, the parties stipulate that (A) the Cantor action plaintiffs must do so no later than One Hundred and Twenty (120) days after the close of all liability discovery; and (B) prior to such filing by the Cantor action plaintiffs, and in any case, within Thirty (30) days following the close of all liability discovery, the parties will attend an in-person meet-and-confer conference.

5. After the date this Stipulation becomes effective, in the event that the Cantor action plaintiffs seek leave to amend the Cantor action amended complaint for any reason other than the reason set forth in Paragraph 3, the Cantor action plaintiffs will seek leave to file an amended complaint that: (A) deletes references to Mercy International-USA in paragraph 89 of the Cantor action amended complaint; (B) deletes the following sentences in paragraph 86 of the Cantor action amended complaint: (i) "Mercy operates as Mercy International-USA in the United States, where it was formerly known as Human Concern International ("HCI"); and (ii) "The President of Mercy International-USA and founder of Mercy-Canada has described these entities as "sister organizations""; and (C) deletes references to Mercy International-USA in the Caption;

6. Mercy-USA for Aid and Development, Inc. represents and declares, through its undersigned counsel, that it neither is nor has been related to, directed or controlled by, or

organized within, or served as an agent or principal of, either directly or indirectly, organizations identified in Paragraphs 85-89 of the Cantor action amended complaint as "Mercy International Relief Agency," "Mercy International—Canada," "Mercy-Canada," or "Human Concern International," and/or entities referenced in paragraphs 33-42 of the Cantor action amended complaint;

7. Mercy-USA for Aid and Development, Inc. further represents and declares that it does not, in the ordinary course of its business, maintain custody, possession or control of documents (whether in hard or electronic form) or information that relates to the conduct alleged to have occurred by the Cantor action plaintiffs within the Cantor action amended complaint;

8. Should the instant Cantor action be dismissed without prejudice but re-filed pursuant to paragraph 3 of this Stipulation (hereinafter "re-filed Cantor action"), then the re-filed Cantor action shall be treated for all purposes as if it had been filed in the United States District Court for the Southern District of New York and consolidated with In Re: Terrorist Attacks on September 11, 2001, 03 MDL No. 1570. Further, the date on which the re-filed Cantor action was originally filed shall govern the re-filed Cantor action, such that no claim shall be deemed time-barred solely as a result of it being deemed dismissed without prejudice pursuant to this Stipulation and re-filed as set forth herein, and the time between the date that this Stipulation becomes effective (as set forth herein) and the filing of the re-filed Cantor action shall not be applied towards any applicable statute of limitations.

8. This Stipulation may be signed in counterparts by Counsel for the stipulating parties.

9. This Stipulation shall not be effective as to any party until it is executed by all parties below and so ordered by the Court.

10. Nothing herein is intended to dismiss or release any claims for relief that the Cantor action plaintiffs may have in this action against any person, entity or party other than Mercy-USA for Aid and Development, Inc., all such rights and claims for relief being expressly reserved by the Cantor action plaintiffs.

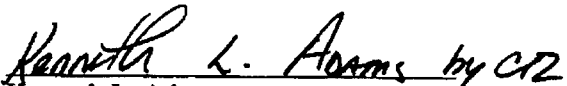
Respectfully submitted,

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Karla J. Letsche  
Oldaker, Biden & Belair, LLP  
818 Connecticut Ave., NW  
Washington, DC 20006  
Tel.: 202-728-1010  
Fax: 202-728-4044  
  
Attorneys for Mercy-USA for Aid and  
Development, Inc.

Dated: \_\_\_\_\_

SO ORDERED:

Dated: \_\_\_\_\_  
New York, New York

  
\_\_\_\_\_  
Kenneth L. Adams  
Dickstein Shapiro Morin & Oshinsky LLP  
1177 Avenue of the Americas  
41st Floor  
New York, NY 10036-2714  
Tel.: 212-835-1400  
Fax: 212-997-9880  
Attorneys for Plaintiffs

Dated: May 16, 2005

\_\_\_\_\_  
The Honorable Richard Conway Casey  
United States District Judge

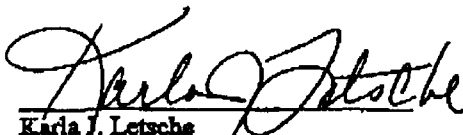
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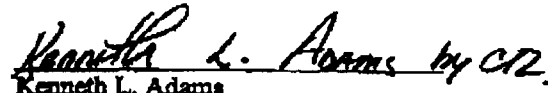
10. Nothing therein is intended to dismiss or release any claims for relief that the Cantor action plaintiffs may have in this action against any person, entity or party other than Mercy-USA for Aid and Development, Inc., all such rights and claims for relief being expressly reserved by the Cantor action plaintiffs.

Respectfully submitted,

  
Maria J. Letsche  
Oldaker, Biden & Belair, LLP  
818 Connecticut Ave., NW  
Washington, DC 20006  
Tel.: 202-728-1010  
Fax: 202-728-4044

Attorneys for Mercy-USA for Aid and  
Development, Inc.


Dated: May 16, 2005

  
Kenneth L. Adams  
Dickstein Shapiro Morin & Oshinsky LLP  
1177 Avenue of the Americas  
41st Floor  
New York, NY 10036-2714  
Tel.: 212-835-1400  
Fax: 212-997-9880  
Attorneys for Plaintiffs

Dated: May 16, 2005

SO ORDERED:

Dated: May 17, 2005  
New York, New York

  
The Honorable Richard Conway Casey  
United States District Judge